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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,950	12/14/2003	Jeffrey D. Davies	111803.P001	3725

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EXAMINER

SPISICH, GEORGE D

ART UNIT

PAPER NUMBER

3616

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/735,950		DAVIES, JEFFREY D.	
	<b>Examiner</b>		<b>Art Unit</b>	
	George D. Spisich		3616	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 February 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) 1-17 and 30-43 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 December 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/14/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of the Invention of Group III, claims 18-29 in the reply filed on February 14, 2006 is acknowledged. The traversal is on the ground(s) that there was not shown lack of distinction between the subcombinations and the office did not show "serious" burden. This is not found persuasive because the inventions combined with the subcombination detail would create serious burden of search as the detail of the various subcombinations were not required by each restricted group and were independently usable.

The requirement is still deemed proper and is therefore made FINAL.

Claims 1-17 and 30-43 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on February 14, 2006.

### ***Specification***

The disclosure is objected to because of the following informalities:

On page 15, paragraph [0043], at least lines 6-8, there is disclosed a transmission shaft (602) and a transmission housing (602). Applicant cannot use the same reference numeral to refer to different elements.

Appropriate correction is required.

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "602" in Figure 6 has been used to designate both the transmission shaft and the transmission housing. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 24,25,28 and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These claims relate to a vehicle model and are inherently unclear. The transmission and vehicle structure is all that is relevant in a patent claim not the name of the particular vehicle that includes a transmission.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18,19 and 24-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pestotnik (USPN 6,182,784) (provided in Applicant's IDS) in view of Grayson (USPN 5,247,845).

Pestotnik discloses an ATV having a transmission, the transmission having a shaft and a housing and further having a power takeoff shaft (56a) that transfers energy to an external device. Pestotnik discloses a sub-transmission (see col. 6, lines 51-67) that includes a normal, low and "super" low speed/gear position. Furthermore, it is stated that the device is placed in a neutral position.

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However, Pestotnik does not disclose the transmission shaft having a releasably connectable shaft extension that is coupled to the transmission shaft an "accessible" through an opening in the transmission housing.

Grayson discloses a power takeoff arrangement having a transmission shaft (12) and an opening through which a transmission shaft extension (30) is releasable coupled thereto. Providing a shaft member that transitions to a driven device is a well-known feature in transmission devices.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the arrangement of Pestotnik by provided a transmission shaft extension/adapted that is releasably connectable to the transmission shaft through an opening in the transmission housing as taught by Grayson so as to provide an "adaptability" feature to the PTO arrangement improve it's versatility.

With respect to Claims 24,25,28 and 29, Examiner is interpreting these claims to be a transmission that is an ATV transmission on a comparable vehicle as Pestotnik discloses

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pestotnik in view of Grayson as applied to claims 18,19 and 24-29 above, and further in view of Laflamme (USPN 6,672,414).

Pestotnik in view of Grayson does not disclose a PTO including a hydraulic pump.

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Laflamme discloses an ATV having a PTO incorporating a hydraulic pump.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Pestotnik in view of Grayson by providing a PTO unit including a hydraulic pump as taught by Laflamme as a hydraulic pump is a versatile and useful means of powering an external device.

Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pestotnik in view of Grayson as applied to claims 18,19 and 24-29 above, and further in view of Yokoyama (USPN 5,144,852).

Pestotnik in view of Grayson do not specifically disclose a sub-transmission plate providing a neutral position as claimed. Although Pestotnik discloses a sub-transmission and a plurality of shift positions (col. 6, lines 51-67), Examiner is not relying on this detail to be a transmission plate containing a position.

Yokoyama (Fig. 1) discloses a shift plate having a plurality of positions. The relevance is merely in a providing a shift plate having position.

With respect to claims 22 and 23, the dependency of these claims from 21 does not require that a transmission shift plate be required to have a plurality of neutral positions and furthermore it is proper to use the terms "high", "low" or "super low" positions to describe any gear position as these detail likewise are not claimed so as to be included in one arrangement. Therefore, it is proper to

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refer to a single gear position as high or low in one interpretation and low or super low in another.

It would have been obvious to one of ordinary skill in the art to use a shift plate arrangement as taught by Yokoyama in the sub-transmission gear selection arrangement as disclosed by Pestotnik so as to provide a position engagement and indication of the proper and desired gear position while provided a neutral position between two gear positions that may be called a high and low, or a low and super low, which is consistent with the gear positions disclosed by Pestotnik.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wesley (USPN 6,499,548), Adams (USPN 4,703,818), Greene (USPN 6,719,637), Ishimaru (USPN 5,947,218), Pitchford (USPN 5,070,982), Beam (USPN 6,179,745), Behrens (USPN 4,051,915), Foote et al. (USPN 4,577,712), Jones (USPUB 2005/0126319), Rundle (USPN 4,658,662).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George D. Spisich whose telephone number is (571) 272-6676. The examiner can normally be reached on Monday-Friday 9:00 to 6:30 except alt. Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (571) 272-6669. The fax

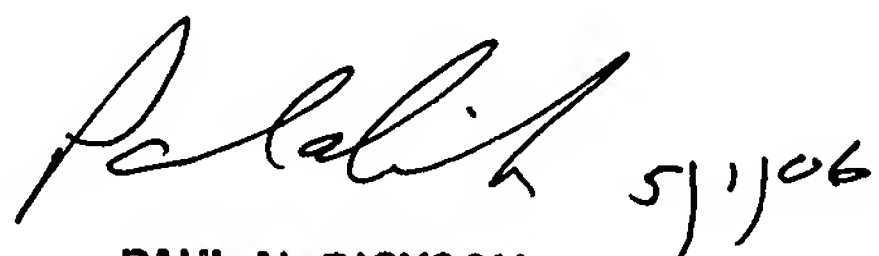


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phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

George D. Spisich  
April 29, 2006



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